

TO: State Directors, Rural Development

ATTN: Business Programs Directors

SUBJECT: Business and Industry Guaranteed Loan and Section 9007 Rural
Energy for America Programs
Transfer and Assumption

PURPOSE/INTENDED OUTCOME:

To provide guidance to State Offices on transfers and assumptions.

COMPARISON WITH PREVIOUS AN:

This replaces RD AN No. 4317, dated November 21, 2007, which expired on November 30, 2008.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4287-B, section 4287.134, provides guidance regarding transfers and assumptions. While a transfer and assumption is a loan servicing action, it is subject to an Agency review of its credit quality, and must be in compliance with published eligibility requirements set forth in RD Instruction 4279-B, section 4279.108. This normally requires submitting a new application, business plans with pro forma balance sheets, 2 years projected balance sheets and income statement, in addition to the lender's financial analysis of the new business, and current guarantor financial statements. In addition, you must ensure that the transfer and assumption to a new entity does not exceed the maximum terms that the Agency can extend as set forth in RD Instruction 4279-B, section 4279.126(a). For example, as it relates to machinery and equipment, the maximum term for which the Agency can extend a guarantee is 15 years or the useful life of the machinery and equipment, whichever is less.

EXPIRATION DATE:
November 30, 2009

FILING INSTRUCTIONS:
Preceding RD Instructions 4280-B and 4287-B

All transfers and assumptions must be approved in writing by the Agency. A transfer and assumption to another eligible borrower can be for the total indebtedness at the same rates and terms or, under certain circumstances, different rates and terms (see RD Instruction 4287-B, section 4287.134(b)). A transfer can also occur for less than the total indebtedness at the same rates and terms or different rates and terms.

In any case, the transferor, including any guarantor(s), may be released from liability by the lender with the Agency's prior written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan being assumed and is supported by a current appraisal and a current financial statement. After the transfer and assumption, the loan needs to be as well secured as before taking into consideration all credit factors including equity position, net worth of guarantors, etc. The new guarantor(s) should have the same or greater net worth as the guarantor(s) being released. In accordance with RD Instruction 4279-B, section 4279.149, the lender must obtain new personal and/or corporate guarantee(s) from all that have a 20 percent or more interest in the transferee.

All Section 9006 Renewable Energy Systems and Energy Efficiency Improvement and Section 9007 Rural Energy for America Guaranteed Loans Programs will be serviced in accordance with RD Instruction 4280-B, section 4280.152.

If you have any questions on the information provided, please contact Felicia Blue, Loan Specialist, Business and Industry Division, (202) 690-9903.

(Signed by Ben Anderson)

BEN ANDERSON
Administrator
Business and Cooperative Programs